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9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN FRANCISCO DIVISION
12

13 SECURITIES AND EXCHANGE
14 COMMISSION,

15 Plaintiff,

16 v.

17 ANDREW M. MILLER,

18 Defendant.
19
20
21

Case No. 3:15-cv-01461-SC

**STIPULATION AND ~~[PROPOSED]~~
SCHEDULING ORDER**

1 Pursuant to Civil Local Rules 6-1, 6-2, and 7-12, plaintiff Securities and Exchange
2 Commission (the “Commission”) and defendant Andrew Miller (collectively, the “Parties”)
3 respectfully request that the Court adopt the Parties’ stipulation below as the order of the Court,
4 which (i) sets forth a schedule for the Parties to request a settlement conference before a
5 magistrate judge; (ii) extends the time for Mr. Miller to respond to the Commission’s complaint
6 (ECF No. 1) (the “Complaint”), and (iii) continues the Initial Case Management Conference
7 currently set for June 26, 2015.

8 **FACTUAL BACKGROUND TO THE PARTIES’ STIPULATION**

9 In support of this stipulation, the undersigned Parties provide the following facts, which
10 are verified in the supporting Declaration of Philip T. Besirof:

- 11 1. On March 31, 2015, the Commission filed the Complaint in this action.
- 12 2. On April 2, 2015, the Commission sent a waiver of service form to counsel for
13 Mr. Miller. (ECF No. 7.)
- 14 3. On April 17, 2015, this action was reassigned to the Honorable Samuel Conti.
15 (ECF No. 5.)
- 16 4. On April 17, 2015, the Court set an Initial Case Management Conference for
17 June 26, 2015. (ECF No. 6.)
- 18 5. On May 4, 2015, Mr. Miller’s counsel executed the waiver of service form.
19 (ECF No. 7.)
- 20 6. Under Rule 4(d) of the Federal Rules of Civil Procedure, Mr. Miller has 60 days
21 from the date the request was sent to respond to the Complaint, which is June 1, 2015.
- 22 7. The Parties have met and conferred and believe that an early settlement conference
23 before a magistrate judge would provide substantial assistance to the Parties’ understanding of the
24 case and could substantially narrow the issues in dispute, which could lead to resolution.
- 25 8. The Parties believe that the interests of judicial economy and efficiency will be
26 well served by extending Mr. Miller’s response deadline to the Complaint and continuing the
27 Initial Case Management Conference until after a settlement conference is held with a magistrate
28 judge.

STIPULATION

In light of these facts, the undersigned parties jointly request the Court to enter the following stipulation as an Order of the Court:

A. Pursuant to ADR Local Rules 2-3, 3-5(d), and 7-3 (and in lieu of a Notice of Need for ADR Phone Conference under ADR Local Rule 3-5(c)), the Parties request an early settlement conference before a magistrate judge to occur within the next 90 days, or as soon thereafter as the Court's schedule may permit. The Parties will file a joint request expressing the Parties' preferences for one or more magistrate judges within the next seven (7) days.

B. The deadline for Mr. Miller to respond to the Complaint is extended until 20 days after the settlement conference.

C. The Initial Case Management Conference currently set for June 26, 2015, at 10:00 a.m., is hereby vacated, and the Initial Case Management Conference shall be set to such date and time as the Court may order.

D. In the event that the case has not settled within 90 days of the Court's order approving this stipulation, the Parties shall file a case management statement updating the Court on the status of this matter and/or requesting an Initial Case Management Conference.

1 IT IS SO STIPULATED.

2 Dated: May 29, 2015

MORRISON & FOERSTER LLP

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4 By: /s/ Craig D. Martin
Craig D. Martin

5 Paul T. Friedman
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11 *Attorneys for Defendant Andrew Miller*

12 Dated: May 29, 2015

SECURITIES AND EXCHANGE COMMISSION

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14 By: /s/ Susan F. La Marca
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22 *Exchange Commission*
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ECF ATTESTATION

I, Philip Besirof, am the ECF User whose ID and Password are being used to file this motion. In compliance with Civil Local Rule 5-1(i)(3), I hereby attest that Paul Friedman has concurred in this filing.

Dated: May 29, 2015

MORRISON & FOERSTER LLP

By: /s/ Philip T. Besirof
Philip T. Besirof

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Attorneys for Defendant Andrew Miller

DECLARATION OF PHILIP T. BESIROF

I, PHILIP T. BESIROF, hereby declare as follows:

1. I am an attorney licensed to practice law in the State of California and am admitted to practice before this Court. I am a member of the law firm of Morrison & Foerster LLP, and counsel of record for defendant Andrew Miller. I submit this Declaration in support of the parties' Stipulation and [Proposed] Scheduling Order (hereafter, the "Stipulation"). If called as a witness, I would testify to the facts listed below.

2. Pursuant to Civil Local Rule 6-2, I attest that the facts set forth in the Stipulation, paragraphs 1 through 8 inclusive, are all true and accurate.

3. This is the parties' first request for a modification of time. Other than the case management conference currently set for June 26, 2015, the proposed schedule will not impact any other deadlines or dates set by the Court.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that this Declaration was executed in San Francisco, California, on this 29th day of May, 2015.

MORRISON & FOERSTER LLP

By: /s/ Philip T. Besirof
Philip T. Besirof

~~[PROPOSED]~~ ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Case Management Conference is set for September 25, 2015 at 10:00 am. A joint case management statement shall be filed by September 18, 2015.

Dated: June 4, 2015


THE HONORABLE SAMUEL CONTI
United States District Judge